

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ZINO DAVIDOFF SA,

Plaintiff,

v.

CVS CORPORATION,

Defendant.

06 Civ. 15332 (KMK)

**DECLARATION OF JIM DUGGAN**

I, Jim Duggan, hereby declare as follows:

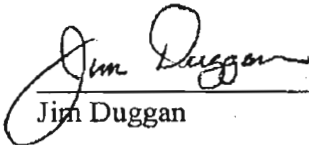
1. I am Vice President of Risk Management, Security and Corporate Services at Coty Inc., 2 Park Avenue, New York, New York 10016. My duties include purchasing products that are suspected of infringing trademark, trade dress and copyrights.
2. I have been trained to authenticate DAVIDOFF COOL WATER Products and am familiar with the characteristics that differentiate genuine products authorized for sale in the United States from counterfeit products and decoded gray market products.
3. “Gray market products” refers to goods that are legitimately sold abroad under a particular trademark and then imported into the United States and sold in competition with goods of the owner of the United States trademark rights in the identical mark. We use the phrase “decoded gray market products” to refer to DAVIDOFF COOL WATER Products from which the unique production code has been removed or is covered over. In my experience it is standard practice for the people and businesses seeking to sell gray market products to remove the unique production codes.
4. I participated in the initial inspection of DAVIDOFF COOL WATER Products at

two CVS Corporation warehouses, Woonsocket, Rhode Island and Lumberton, New Jersey.

Based upon my investigation I can confirm that the document attached hereto as Exhibit A and entitled SUMMARY OF INVENTORY REVIEW is an accurate description of what I found during my initial inspection of products at the above locations.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: February 2, 2007



Jim Duggan

## **Exhibit A**

**ZINO DAVIDOFF SA V. CVS CORPORATION**

**SUMMARY**

**TOTAL NUMBER OF COUNTERFEIT UNITS AT ALL  
LOCATIONS: 402**

**TOTAL NUMBER OF DECODED GRAY MARKET UNITS AT  
ALL LOCATIONS: 14,325**

**ZINO DAVIDOFF SA V. CVS CORPORATION**  
**SUMMARY OF INVENTORY REVIEW**

CVS Facility: Orlando  
 8201 Chancellor Drive  
 Orlando, FL 02895

Name of Inspector: Donald R. Andersen  
 Date: 5th January 2007

**TOTAL NUMBER OF UNITS INSPECTED:**

**4,004**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man 1.35oz EDT			210		Yes
Cool Water Woman 1.7oz EDT			284		Yes
Cool Water Man 2.5oz EDT	11		1,389		Yes
<b>TOTAL:</b>	<b>11</b>		<b>1883</b>		

**ZINO DAVIDOFF SA V. CVS CORPORATION  
SUMMARY OF INVENTORY REVIEW**

CVS Facility: Vero Beach  
CVS DC  
2572 98th Avenue  
Vero Beach, FL 32966

Name of Inspector: Donald R. Andersen  
Date: 5th January 2007

**TOTAL NUMBER OF UNITS INSPECTED: 1539**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man 1.35oz EDT			147		Yes
Cool Water Woman 1.7oz EDT			62		Yes
Cool Water Man EDT 2.5oz EDT			711		Yes
<b>TOTAL:</b>			<b><u>920</u></b>		

**ZINO DAVIDOFF SA V. CVS CORPORATION  
SUMMARY OF INVENTORY REVIEW**

CVS Facility: Indianapolis  
Address: 7590 Empire Drive  
Indianapolis, IN 46219

Name of Inspector: Kevin Peverill  
Date: 5<sup>th</sup> January 2007

**TOTAL NUMBER OF UNITS INSPECTED: 5,783**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man EDT 40ml			240	IN86, IN87, IN95-IN100	Yes
Cool Water Woman EDT 50ml			1,752	IN1-IN74, IN89-IN94	Yes
Cool Water Man EDT 75ml			3,008	IN101, IN116- IN205	Yes
<b>TOTAL:</b>			<b>5000</b>		



**ZINO DAVIDOFF SA V. CVS CORPORATION**  
**SUMMARY OF INVENTORY REVIEW**

CVS Facility: Knoxville  
 Address: 3400 Huntington Park  
 Loudon, TN 37774

Name of Inspector: Kevin Peverill  
 Date: 8<sup>th</sup> January 2007

**TOTAL NUMBER OF UNITS INSPECTED: 3,799**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man EDT 40ml			391	KN53-KN60	Yes
Cool Water Woman EDT 50ml			614	KN28-KN52	Yes
Cool Water Man EDT 75ml			1,723	KN61-KN120	Yes
<b>TOTAL:</b>			<b><u>2728</u></b>		



**ZINO DAVIDOFF SA V. CVS CORPORATION**  
**SUMMARY OF INVENTORY REVIEW**

CVS Facility: Conroe  
 Address: 100 South Trade Center Parkway  
 Conroe, TX 77385

Name of Inspector: Kevin Peverill  
 Date: 15<sup>th</sup> January 2007

**TOTAL NUMBER OF UNITS INSPECTED: 1,536**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man EDT 40ml			65	CN3, CN52	Yes
Cool Water Man EDT 75ml			337	CN6-CN13	Yes
<b>TOTAL:</b>			<b>402</b>		

**ZINO DAVIDOFF SA V. CVS CORPORATION**  
**SUMMARY OF INVENTORY REVIEW**

CVS Facility: Ennis  
 Address: 700 CVS Drive  
 Ennis, TX 75119

Name of Inspector: Kevin Peverill  
 Date: 16<sup>th</sup> January 2007

**TOTAL NUMBER OF UNITS INSPECTED:**

**1965**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man EDT 40ml			259	EN8-EN10, EN18-EN20	Yes
Cool Water Woman EDT 50ml			164	EN11-EN14, EN15-EN17	Yes
Cool Water Man EDT 75ml	16	EN42	447	EN1, EN24, EN25, EN30, EN31, EN33, EN34, EN40, EN41	Yes
<b>TOTAL:</b>	<b><u>16</u></b>		<b><u>870</u></b>		

**ZINO DAVIDOFF SA V. CVS CORPORATION  
SUMMARY OF INVENTORY REVIEW**

CVS Facility: La Habra  
Address: 777 South Harbor Boulevard  
La Habra, CA 90631

Name of Inspector: Kevin Peverill  
Date: 17<sup>th</sup> January 2006

**TOTAL NUMBER OF UNITS INSPECTED: 2,711**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man EDT 40ml			245	LH7, LH8, LH10, LH11, LH16	Yes
Cool Water Woman EDT 50ml			162	LH1-LH6, LH61	Yes
Cool Water Man EDT 75ml			847	LH26-LH33, LH35-LH37, LH39-LH41, LH58-LH60	Yes
<b>TOTAL:</b>			<b><u>1254</u></b>		

**ZINO DAVIDOFF SA V. CVS CORPORATION  
SUMMARY OF INVENTORY REVIEW**

CVS Facility: Woonsocket, RI  
Address: 400 Founders Dr Woonsocket, RI 02895

Name of Inspector: Donald Andersen  
Date: January 17<sup>th</sup>, 2007

**TOTAL NUMBER OF UNITS INSPECTED:**

**1,906**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS.	WAS PRODUCT SEGREGATED?
Cool Water Man EDT 1.35oz			75	45,46	Yes
Cool Water Woman EDT 1.7oz			162	47-54	Yes
Cool Water Man EDT 2.5oz	364	26-36	187	2,3,4,7,9,10,1 2,13,14,15,17 ,55,56	Yes
<b>TOTAL:</b>	<b>364</b>		<b>424</b>		



**ZINO DAVIDOFF SA V. CVS CORPORATION  
SUMMARY OF INVENTORY REVIEW**

CVS Facility: Lumberton, NJ  
Address: 1 Berry Dr Lumberton, NJ 08048

Name of Inspector: Donald Andersen  
Date: January 18<sup>th</sup>, 2007

**TOTAL NUMBER OF UNITS INSPECTED: 1332**

DESCRIPTION OF PRODUCT	TOTAL NO. OF COUNTERFEIT UNITS	BOX NOS.	TOTAL NO. OF DECODED GRAY MARKET UNITS	BOX NOS	WAS PRODUCT SEGREGATED?
Cool Water Woman EDT 1.7oz			201	39-45	Yes
Cool Water Man EDT 1.35oz			48	23	Yes
Cool Water Man EDT 2.5oz	11	4	595	4,16,17,18,2 4-36	Yes
<b>TOTAL:</b>	<b>11</b>		<b>844</b>		